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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/044,858      | 11/13/2001  | Steven Ausnit        | 769-300             | 9832             |

7590 12/02/2002

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EXAMINER

SIPOS, JOHN

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3721

DATE MAILED: 12/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/044,858

Applicant(s)

AUSNIT, STEVEN

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

### ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 8** is rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites the use of two zippers with their first flanges connected to each other. With the use of such a double zipper the longitudinal sealing of the cover and the base films between the two zippers recited in claim 1 can't take place. Either this step should be deleted from claim 1 or claim 8 should be amended. Note that apparatus claim 12 does not recite the longitudinal sealing means between the zippers.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claims 12** is rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Sanborn (4,437,293 - cited by applicant). The Sanborn patent discloses an apparatus and

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method for forming reclosable packages. It comprises of means for advancing a base film (35), means for loading the base film with two longitudinal rows of products (10), means for applying two zippers onto the base film (1), means for applying a cover film over the base film and the zippers (11), means for joining the zippers to the two films (30), means for transversely sealing the two films together and for cutting the sealed films transversely and longitudinally (38).

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The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 1-20** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Sanborn (4,437,293) in view of Malin (6,138,436). As set forth above the Sanborn process is substantially equivalent to the one recited in the claims. The only difference between the claimed process and Sanborn is the forming of bags rather than of packages/film with pockets and the longitudinal sealing of the films together between the zippers to enclose the zippers. The patent to Malin shows a horizontal form-fill-seal bag forming operation which forma a single row of bags by feeding a zipper (32) onto a film, placing products on the film at 30, folding the film over the zipper and the product ((32), sealing the zipper to the top and bottom of the film (84,86), sealing the top and bottom of the film to each other (68,70) to enclose the zipper (see Figure 6), and transversely sealing and cutting the bags between the products (65/67). Although the claims do not specifically exclude films with pockets, it would have been obvious to one of ordinary

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skilled in the art to use pocketless film in the process of Sanborn and form bags as shown by Malin. Furthermore, since Sanborn discloses an embodiment with dual zippers that are not joined together (see column 4, lines 59-69), it would have been obvious to one of ordinary skilled in the art to longitudinally seal the top and bottom films together between the two zippers to enclose the zippers as taught by Malin. The use of peel seals (claim 3,10), line of weakness (claim 4,18), sliders and slider stops (claim 6,7,13,14) and guides (claims 17 and 19) are well known in the bag making art and their use in the Sanborn operation would have been obvious for their inherent advantages. Regarding the guides of claims 17 and 19, note guide 92 of Malin.

**Claims 1-20** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to of Malin (6,138,436) in view of Sanborn (4,437,293). It would have been obvious to one of ordinary skilled in the art to perform the Malin operation in double rows as shown by Sanborn to increase the efficiency of the operation.

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### ***ADDITIONAL REFERENCES CITED***

The following prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

The patents to Branson, Bentsen, Ausnit (671) and Ausnit (084) show bag forming operations with dual bag lines formed from single webs.

The patents to Ausnit (090) and Schwarzkopf show single line operation.

The patents to McMahon and Belmont show bag forming process with sliders and with the bag films sealed around the zipper to enclose the zipper.

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The patent to McDonald shows dual line package forming with the two zippers joined together by a web.


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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.

  
**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**

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